

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

DARRYL W. TUCKER,

Petitioner,

vs.

Case No. 3:09cv271

WARDEN, CHILlicothe
CORRECTIONAL INSTITUTION,

JUDGE WALTER HERBERT RICE

Respondent.

DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS
OF UNITED STATES MAGISTRATE JUDGE (DOC. #3) IN THEIR
ENTIRETY, AND OVERRULING PETITIONER'S OBJECTIONS TO SAID
JUDICIAL FILING (DOC. #5); JUDGMENT TO ENTER IN FAVOR OF
RESPONDENT AND AGAINST PETITIONER; ANY REQUESTED
CERTIFICATE OF APPEALABILITY AND REQUEST TO APPEAL /N
FORMA PAUPERIS DENIED; TERMINATION ENTRY

Pursuant to the reasoning and citations of authority set forth by the United States Magistrate Judge, in his Report and Recommendations filed July 21, 2009 (Doc. #3), as well as upon a thorough *de novo* review of this Court's file and the applicable law, said Report and Recommendations are adopted in their entirety. The Petitioner's Objections to said judicial filing (Doc. #5) are overruled.

Judgment is to be entered in favor of the Respondent and against Petitioner herein, dismissing Petitioner's Petition for Writ of Habeas Corpus as failing to state

a claim for relief and as procedurally defaulted (Ground 1) and as procedurally defaulted and upon the merits (Grounds 2 and 3).

Given that jurists of reason would not disagree with said conclusions, in that Petitioner has failed to make a substantial showing of the denial of a constitutional right, Petitioner is denied any to be requested Certificate of Appealability and Leave to Appeal *In Forma Pauperis*.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

/s/ Walter Herbert Rice

September 14, 2009

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Darryl W. Tucker, Pro Se

Diane Duemmel Mallory, Esq.

Magistrate Judge Michael R. Merz